

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

TK POWER, INC.,

No. C-04-5098 EMC

Plaintiff,

v.

**ORDER RE MEET AND CONFER**

TEXTRON, INC.,

Defendant.  

---

As stated at the hearing on September 28, 2005, the parties' previous meet and confer efforts with respect to the discovery motions filed by Plaintiff TK Power, Inc. on September 19, 2005, *see* Docket Nos. 33, 36, 42, were inadequate, and the Court therefore orders the parties to further meet and confer. The meet and confer shall be in person, and either lead trial counsel or counsel with *full and complete* authority on discovery matters shall participate. The parties are forewarned that the Court expects the parties to meet and confer in good faith and that it will not look kindly upon unnecessary posturing by either party. Any party that takes a position that is not substantially justified may be subject to sanctions. The Court reiterates that disputes over ambiguity in the terms of written discovery requests should be resolved, blanket objections are improper, request for admissions must be answered completely and not partially, consistent with Rule 36(a), and any claim of burden under Rule 26(b)(2) must be supported by specific facts and evidence.

*In lieu of any opposition or reply briefs*, the parties shall file a joint letter on October 5, 2005, discussing the results of their meet and confer. The joint letter should reflect when the in-person meet and confer took place, how long it lasted, and who participated. The joint letter should

1 also inform the Court of the issues on which the parties were able to which agreement and the issues,  
2 if any, still in need of resolution. For each remaining dispute, the parties should provide brief  
3 statements in support of their respective positions, including citation to any applicable legal  
4 authority. The parties should use the attached template for their joint letter.

5 The Court shall at this time keep TK Power's discovery motions set for hearing on  
6 November 2, 2005. The Court reserves ruling on TK Power's request for sanctions.

7  
8 IT IS SO ORDERED.

9  
10 Dated: September 28, 2005

11   
12 \_\_\_\_\_  
13 EDWARD M. CHEN  
14 United States Magistrate Judge  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**EXHIBIT 1 -- TEMPLATE FOR JOINT LETTER**

[Date]

VIA [METHOD]<sup>1</sup>

Honorable Edward M. Chen  
 United States Magistrate Judge  
 U.S. District Court  
 450 Golden Gate Avenue  
 San Francisco, CA 94102

Re: [Case number and case name]

Dear Judge Chen:

The parties have met and conferred regarding several discovery disputes. The meet and confer took place on [date], with the participation of [Plaintiff's attorney], representing Plaintiff, and [Defendant's attorney], representing Defendant. The meet and confer was in person and lasted approximately [minutes or hours].

**I. RESOLVED DISCOVERY DISPUTES**

The parties reached agreement on several discovery disputes. Those agreements are as follows:

[Description of Agreement No. 1.]

[Description of Agreement No. 2.]

[Description of Agreement No. 3, etc.]

**II. REMAINING DISCOVERY DISPUTES**

The parties were not able to reach agreement on the remaining discovery disputes. Those remaining disputes and the parties' respective positions are provided below. Copies of the relevant discovery requests and responses are attached as Exhibits [numbers].<sup>2</sup>

A. [Dispute No. 1]1. [Position of Party Seeking Discovery]<sup>3</sup>


---

<sup>1</sup> Note for Counsel: The Court may request a courtesy copy of the joint letter to be faxed to chambers. If so, counsel should still file a copy of the joint letter with the Clerk of the Court. The letter faxed to chambers is a courtesy copy only. *As a general matter, parties may not fax any papers to the Court without prior leave of the Court.*

<sup>2</sup> Note for Counsel: Unnecessary exhibits should not be attached.

<sup>3</sup> Note for Counsel: Each party's position should be stated succinctly (*e.g.*, in one paragraph). The purpose of the joint letter is to inform the Court of the essence of the dispute in lieu of full briefing. The Court may order full briefing and/or a hearing if necessary.

**United States District Court**  
For the Northern District of California

1           2.       [Position of Party Opposing Discovery]

2   B.       [Dispute No. 2]

3           1.       [Position of Party Seeking Discovery]

4           2.       [Position of Party Opposing Discovery]

5   C.       [Dispute No. 3]

6           1.       [Position of Party Seeking Discovery]

7           2.       [Position of Party Opposing Discovery]

8   D.       [Dispute No. 4, etc.]

9           1.       [Position of Party Seeking Discovery]

10          2.       [Position of Party Opposing Discovery]

11       Sincerely,

12  
13       [Plaintiff's counsel]  
14       Attorney for Plaintiff

          [Defendant's counsel]  
          Attorney for Defendant